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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/784,330	02/16/2001	Luigi J.F. Canali	025780-00001	1904

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EXAMINER

POINVIL, FRANTZY

ART UNIT PAPER NUMBER

3628

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/784,330

Applicant(s)

CANALI ET AL.

Examiner

Frantzy Poinvil

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 6, 8, 12, 14-22, 25-31, 70-74, 76, 103-107, 109 and 130-151 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 6, 8, 12, 14-22, 25-31, 70-74, 76, 103-107, 109 and 130-151 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Regarding the status of the claims in the instant application, claims 1-129 were originally pending. In a response dated 4/6/2005 to the restriction/election dated 1/5/2005, the applicant's representative had elected claims 1, 2, 5-31, 62, 63, 65-76, 95, 96, 98-109 with traverse. The Examiner maintained the Restriction/Election and issued a Final on the Restriction/Election, thus, withdrawing claims 3, 4, 32-61, 64, 77-94, 97 and 110-129 from consideration. The Examiner has previously indicated allowable subject matter of claims 1, 6, 8, 12, 14-22, 25-31, 70-74, 76, 103-107, 109 and 130-151. The Applicant's representative has now canceled claims that were under a "Withdrawn" in order to bring the application into allowance. The Examiner has made an updated search and found new prior art. The Examiner is obliged to apply the newly found prior art. The Examiner regrets the delayed process of the application.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 6, 8, 12, 16-19, 21-22, 25-29, 70-74, 76, 103-107, 130, 134-137, 139, 143, 144, 146 and 150 are rejected under 35 U.S.C. 102(e) as being anticipated by Shkedy (US Patent No. 6,260,024).

As per claims 1, 6, 18-19, 21, 25, 70-71, 73, 103-104, 106, 130, 137, 139, 144, 146, 150, Shkedy discloses a system and method for facilitating an auction system.

The system and method comprise:

Receiving through a network a request for an item from a first machine of a buyer;

Sending through the network the request for the item to a second machine;

Receiving through the network a first bid from a sender or seller at the second machine, the first bid being based on the request for the item;

Sending through the network the request for the item to a third machine or another vendor;

Receiving through the network a second bid from a sender at third machine, the second bid being based on the request for the item;

Ranking the first bid and the second bid based on a comparison of each bid with the request for the item, the ranking including a first status for the first bid and a second status for the second bid. See column 6, lines 1-40 and column 8, lines 41-67 of Shkedy. Depending on the amount being bid, there would be leading and lagging bids thus, a ranking of the bid. As in most auction systems, bidders who are not the top bidder are allowed to re-bid on the item. The system will compare any submitted bids with previously submitted bids to determine the result of the auction.

Wherein the result of the auction is based on a match between the request for the item and at least one of (i) the first bid and (ii) the second bid, the match including at least one of (i) an exact match between the request for the item and at least one of the first bid and the second bid and (ii) at least one of the first bid and the second bid satisfying the request for the item. (See column 17, lines 33-60 of Shkedy).

If there are a plurality of re-bids then there would inherently include a first, second and third result of the auction until the optimal bidder is determined or when the time to end the auction is reached.

As per claims 8, 22, 74, 107, 134-136 and 143, the request for the item, the first bid and the second bid include at least one of (i) performance risk of a potential vendor (ii) price (iii) warranty and (iv) performance of an item. See column 17, lines 15-22, column 10, lines 11-26 of Shkedy.

As per claims 12 and 28, Shkedy discloses transmitting the result of the auction to at least one of (i) the first machine or buyer (ii) the second machine (a vendor) and (i) the third machine (a vendor)). See column 13, lines 1-5 and column 17, lines 55-60.

As per claims 16, 26 and 76, Shkedy teaches the request for the item is sent to the second machine based on (i) the request for the item and (ii) data on at least one potential vendor. See column 16, lines 17-28 and column 17, lines 5-31 of Shkedy.

As per claims 17 and 27, Shkedy teaches sending through the network, an invitation to the first machine to submit the request for the item, the first machine submitting the request for the item based on the invitation. See columns 13 and 14 of Shkedy.

As per claims 20, 72 and 105, the request of the item from the potential consumer is based on at least one of (i) performance of the item and (ii) a term of the request for the item. See column 13, lines 40-63 and column 10, lines 11-25 and column 17, lines 1-60 of Shkedy.

As per claim 29, Shkedy discloses an operator of the first machine submits to mediation based on the result of the auction. See column 27, lines 30-60 of Shkedy.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14, 15, 30, 31, 109, 131-133, 138, 140-142, 145, 147-149 and 151 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shkedy (US Patent No. 6,260,024).

As per claims 14-15, 30-31, 109 the teachings of Shkedy are discussed above. A sender at the first machine submits a second request for second item based on the result of the auction is not explicitly stated in Shkedy. The Examiner notes that such would have been obvious to one of ordinary skill in the art to do in the system of Shkedy especially if the buyer is not the winner of the item being bidden on. Any one buyer not being a winner would have opted to bid on any other item as would have been desired.

If more of the first item remaining and newly bids are accepted, then the bidder would have opted to bid on the item if the bidder still has an interest of obtaining the related item.

As per claims 131-133, 138, 140-142, 145, 147-149, and 151, Shkedy does not explicitly teach the re-bid initiation further comprises:

The limitation of decreasing the lagging response by an increment amount and comparing the decreased lagging response with the leading response upon each incremental decrease and Wherein the leading response is a target price set by the requestor of the bid.

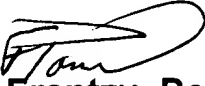
The Examiner asserts that a bidder reviewing the bids may initiate a re-bid whenever the bidder is not the leading bid. When submitting a re-bid, the computer system will instantly compare the bidder's old bid with the new submitted bid or the leading bid to determine the bidder's position or the leading bid so as to rank all submitted bids. In submitting a new bid, a bidder would have desired to decrease his/her bid by a desired amount. Thus, since Shkedy deals with a seller submitting bids in response to a requested item from a buyer, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shkedy by allowing a user or seller to decrease his/her lagging response by an increment amount in order to win the related auction at a reduced price affordable to the buyer.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (571) 272-6797. The examiner can normally be reached on Monday-Thursday from 7:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Sough can be reached on (571) 272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Frantzy Poinvil
Primary Examiner
Art Unit 3628

FP
March 31, 2006